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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
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11 JONI BAKER, aka F. JOAN)
12 BAKER,)
13 Plaintiff(s),)
14 v.)
15 TARGET CORPORATION, *et al.*,)
16 Defendant(s).)
17 _____)

No. C 07-4998 BZ

**ORDER DENYING MOTION TO
REMAND**

18 Plaintiff has moved to remand, asserting that defendant
19 failed to comply with 28 U.S.C. § 1446(b) by not filing a
20 timely notice of removal. Defendant removed on September 27,
21 2007, the day it deposed plaintiff's husband who testified
22 about her damages. Plaintiff claims that the amount in
23 question could have been determined from the interrogatory
24 answers defendant received on August 23, 2007. Defendant
25 claims it could not discern the amount in question until
26 September 27, 2007, when they deposed the husband.

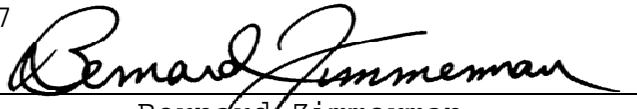
27 A case can only be removed within 30 days of the receipt
28 of a paper "from which it may first be ascertained that the

1 case is one which is or has become removable." 28 U.S.C. §
2 1446(b). "[N]otice of removability under § 1446(b) is
3 determined through an examination of the four corners of the
4 applicable pleadings, not through subjective knowledge or a
5 duty to make further inquiry." Harara v. Landamerica Financial
6 Group Inc., 2007 WL 2938172 at *3 (N.D. Cal. Oct. 9, 2007);
7 quoting Harris v. Bankers Life and Casualty Co., 425 F.3d 689,
8 694 (9th Cir. 2005).

9 I have reviewed plaintiff's interrogatory answers and
10 find that if plaintiff had wanted to put defendant on notice
11 that her claim met the \$75,000 jurisdictional amount, she
12 could have done so by answering question 8.7, which asks for
13 her total income loss. Instead, plaintiff gave her monthly
14 loss, answered other interrogatories from which she claims
15 defendant could calculate the duration of her income loss and
16 now faults defendant for not performing sufficient
17 calculations to determine what plaintiff did not when she
18 failed to answer 8.7.

19 Based only upon the four corners of the interrogatory
20 answers, I find it is not ascertainable that the case was
21 removable. Therefore, defendant filed a timely notice of
22 removal and plaintiff's motion to remand is **DENIED**.

23 Dated: December 17, 2007

24 
25 Bernard Zimmerman
United States Magistrate Judge

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